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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,933	08/22/2003	Rahul Agarwal	REALNET.017D1D1	1761

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EXAMINER	
VU, VIET DUY	

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/646,933	AGARWAL ET AL.	
	Examiner	Art Unit	
	Viet Vu	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) *1-20 and 30-33* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-29 and 34-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-20, 30-33* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. In response to the restriction requirement, applicant's election of invention II including claims 21-29 and 34-36 is hereby acknowledged. Applicant is requested to cancel non-elected claims 1-20 and 30-33 in the next correspondence.

Non-Art Rejections:

2. The following non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy so as to prevent the unjustified or improper timewise extension of the right to exclude granted by a patent. In re Sarett, 327 F2.d 1005, 140 USPQ 474 (CCPA 1964); In re Schneller, 397 F2.d 350, 158 USPQ 210 (CCPA 1968); In re White, 405 F2.d 904, 160 USPQ 644 (CCPA 1969); In re Thorington, 418 F2.d 528, 163 USPQ 644 (CCPA 1969); In re Vogel, 422 F2.d 438, 164 USPQ 619 (CCPA 1970); In re Van Ornam, 686 F2.d 937, 214 USPQ 761 (CCPA 1970); In re Longi, 759 F2.d 887, 225 USPQ 645 (Fed. Cir. 1985); and In re Goodman, 29 USPQ 2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. 1.78(d).

3. Claims 21-29 and 34-36 are rejected under the judicially created doctrine of double patenting as being unpatentable over claims 1-45 of prior U.S. Patent No. 6,633,918.

Although the conflicting claims are not identical, they are not patentable distinct from each other because prior claims 1-45 contain all limitations cited in the present claims.

Art Rejections:

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in—

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 21-22 and 24-25 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ravi, U.S. pat. No. 6,292,834.

Ravi discloses a method for analyzing a multimedia data object comprising:

a) identifying an average transmission rate, i.e., Q1 Q2 (see col 7, lines 48-55 and step 632,-638, fig. 6A);

b) determining/computing a buffer time including buffer time threshold (e.g., DEC_BW) and variable playtime based upon the transmission rate and at least one characteristic of the multimedia object (col 7, lines 56-59; col 8, lines 26-39 and fig. 6B);

c) indicating/storing the buffer time wherein the buffer time is used to adjust the current transmission rate (see col 10, lines 33-67).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 27-29 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi.

Ravi also discloses a display device for displaying data progress/consumption, e.g., playing the video stream (see col 5, lines 65-col 6, line 5). Ravi does not explicitly teach displaying the buffer time on the user interface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ravi to display the playtime variables on the user interface (e.g., windows) because it would have enabled the user to see states of the transmission rates.

9. Claims 23 and 26 are not rejected on art.

Conclusion:

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Friday from 7:00am to 4:00pm. The Group general information number is 571-272-2100. The Group fax number is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VIET D. VU
PRIMARY EXAMINER

Art Unit 2154
9/6/06